

FILED

JUL 16 2010

DAVID CREWS, CLERK
BY *[Signature]* Deputy

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

DONALD R. DePRIEST,

PLAINTIFF

VERSUS

CIVIL ACTION NO.

**PETER S. HARMER and
DOES 1-10,**

**1:10CV177-P-D
DEFENDANTS**

COMPLAINT

1. This is an action by businessman Donald DePriest, to recover damages caused by defendant Peter S. Harmer's, a/k/a Peter S.R. Harmer, (herein "Harmer") for ongoing conduct that tortiously interferes with DePriest's business activity and defames DePriest. Harmer has, and continues, to interfere with valid and existing contracts and relationships between Plaintiff and third parties. Each of Harmer's actions as set forth below was done with actual malice and oppression, and was specifically designed to interfere with and damage DePriest, his reputation and his business.

PARTIES

2. Plaintiff Donald R. DePriest is now, and at all times mentioned herein has been, a United States of America citizen, residing in Columbus, Mississippi. DePriest is the owner, President and Chief Executive Officer of Wireless Properties of Virginia, Inc., a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Columbus, Mississippi. Until July of 2007, DePriest was non-executive Chairman of

MCT Corp., a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Alexandria, Virginia.

3. Peter S. Harmer is a dual citizen of the United States of America and the United Kingdom. On information and belief, Defendant resides and conducts business in Nashville, Tennessee. However, the conduct of which DePriest complains occurred in multiple jurisdictions, and within this judicial district, including the Northern District of Mississippi.

4. On information and belief, Harmer's acts as described herein have been at the direction and with the help of currently unknown and unnamed individuals (hereafter, "Unknown Defendants"). Defendant Harmer and Unknown Defendants harbor extreme ill will toward DePriest, and have engaged in the acts described herein to damage and harm him, his reputation, his business, and his life. Whenever reference is made herein to Harmer, such allegations and reference shall also be deemed to mean the acts of Unknown Defendants. Harmer and Unknown Defendants are jointly and severally liable to DePriest as alleged hereunder for all damages, attorneys' fees, costs and such other sums as are sought and may be awarded by this Court.

5. DePriest does not know of the true names and capacities of defendants sued herein as DOES 1-10, inclusive, and therefore sues these defendants by such fictitious names. He will amend this complaint to allege their true names and capacities when the same are ascertained. DePriest is informed and believes, and thereon alleges, that each of the fictitiously named defendants is responsible in some manner for the occurrences alleged herein, and that his damages were proximately caused by their conduct.

6. DePriest is informed and believes, and on such information and belief alleges, that all the acts and failures to act alleged herein were duly performed by and attributable to all defendants, each acting as agent, co-conspirator, alter ego, associate, co-venture and/or under the

direction and control of the others, and that said acts and failures to act were within the scope of said agency, employment, alter ego, direction, co-venturing and/or control of the others. To the extent that said conduct was engaged by Harmer and the Unknown Defendants the remaining defendants participated in, benefited by, confirmed and/or ratified said conduct. Whenever and wherever reference is made in this complaint to any acts of Harmer, such allegations and references shall also be deemed to mean the acts of the Unknown Defendants and each and every remaining DOE defendant acting individually, jointly or severally. All defendants, collectively, and each defendant separately, are jointly and severally liable to DePriest as alleged hereunder for all damages, attorneys' fees, costs and such other sums as are sought and may be awarded by the United States District Court for the Northern District of Mississippi.

DIVERSITY JURISDICTION

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (a)(2) (complete diversity of citizenship). As set forth in more detail below, Plaintiff is a citizen of Mississippi and Defendant Harmer is a citizen of Tennessee.

8. The citizenship of Unknown Defendants and "DOES 1 through 10" is disregarded for determining citizenship. Cf. 28 U.S.C. § 1441(a) (For removal purposes, "[t]he citizenship of defendants sued under fictitious names shall be disregarded.")

AMOUNT IN CONTROVERSY

9. DePriest seeks more than Twenty Million Dollars (\$20,000,000) in damages resulting from the acts of Harmer as set forth herein, and Defendant's acts have caused substantial damage to Plaintiff's personal and business reputation, and good will. Thus Harmer's

As shown in the Petition, if Mr. DePriest is being damaged by the amount of \$20 million, but yet he has stated in the Phillips case and Goad case that he has no assets and little income, then it can only mean that he has some asset worth more than that, which by all the facts can only be MCLM.

calculated, malicious and nefarious conduct has damaged Plaintiff and his companies well in excess of the jurisdictional minimum of \$75,000. See 28 U.S.C. § 1332(a).

VENUE

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 (a) because “a substantial part of the events...giving rise to the claim occurred” in this judicial district and because, as set forth below, Defendant Harmer is subject to personal jurisdiction herein.

FACTS

11. As recently as July 6, 2010, but going back as far as 2005, Harmer has contacted third parties with the intent of damaging DePriest’s business and reputation in Mississippi and throughout the United States.

12. In November, 2000, Harmer purchased shares in MCT Corp., of which DePriest was Chairman, for \$100,000. During the years 2002 and 2003, Harmer sold his stock to third parties and received \$100,000.

13. In April, 2004, Harmer filed bankruptcy in the United States Bankruptcy Court, Middle District of Tennessee, Petition No. 3:04-BK-04136.

14. On June 24, 2005 (see Exhibit “A”), Harmer requested that DePriest aid him in committing a fraud upon the court by stating Harmer held stock in MCT and that a sale of the stock could be a part of his bankruptcy reorganization. DePriest refused. When MCT stock was sold in 2007 at a profit, Harmer held no stock.

15. Since DePriest refused to participate in the fraud, Harmer has embarked upon a malicious campaign to interfere with DePriest’s business and harm his reputation.

Donald DePriest admits here he was Chairman of MCT Corp. and not "non-executive" Chairman as he falsely alleges now, contrary to all evidence before the FCC and in the public record.

16. In 2009, to Robert Sullins and others, Harmer said, without factual basis, that DePriest is “a fraud,” that MCT had been twice closed for insufficient capital, that DePriest had unpaid federal withholding taxes, that MCT was only a Ponzi scheme (ironically, he simultaneously complains that upon the sale of the Ponzi scheme others made a profit and he did not), and that DePriest had been marketing worthless “Banco Central de Venezuela” bonds.

17. The most recent incarnation of these falsehoods was made in July, 2010 to Brett Sexton, with whom DePriest and his company does business, for the sole purpose of damaging DePriest’s business activities.

COUNT 1

(Defamation)

18. Plaintiff hereby realleges and incorporates by reference the allegations set forth in Paragraphs 1 - 17 above.

19. Defendant has defamed Plaintiff by maliciously making false statements and untrue allegations about the nature of Defendant’s business relationship with Plaintiff.

20. Defendant has defamed Plaintiff by maliciously making false statements and untrue allegations about Plaintiff’s other business interests and about Plaintiff generally.

21. Defendant has defamed Plaintiff by maliciously distributing information and materials which contain untrue allegations about Plaintiff and Plaintiff’s business interests.

22. Defendant has further defamed Plaintiff by making maliciously misleading statements about the nature of Defendant’s business relationship with Plaintiff, as well as about the Plaintiff and Plaintiff’s business interests generally.

23. Defendant has further defamed Plaintiff by maliciously distributing information and materials which contain misleading statements about the Plaintiff and Plaintiff's business interests.

24. The information, materials, and statements were unprivileged and were intended to have and have had a defamatory effect.

25. In publishing this information and these materials, and in making these statements, Defendant acted with presumed malice, actual malice, recklessness, and/or gross negligence.

26. Defendant's defamatory, false and misleading statements have harmed Plaintiff's reputation and good within the business community and within the community generally.

27. Defendant is entitled to general damages and injunctive relief for Plaintiff's maliciously defamatory statements, which have injured Defendant's reputation and standing in the community.

COUNT 2

(Tortious Interference with Business Relationships)

28. Plaintiff hereby realleges and incorporates by reference the allegations set forth in Paragraphs 1 - 27 above.

29. Plaintiff had a reasonable expectancy of entering into or continuing a valid business relationship with existing and prospective investors, customers, and associates.

30. Defendant had knowledge of Plaintiff's reasonable expectation of prospective and continuing business with his investors, customers, and associates, as evidenced by his status as former shareholder of MCT Corp. and representations made to third parties.

31. On information and belief, Defendant intended to and did maliciously interfere with Plaintiff's reasonable expectancy by acting to induce investors, customers and associates not to enter into or continue the business relationship with Plaintiff.

32. Defendant, by and through its above-described conduct, wrongfully, intentionally, and by improper means and methods interfered with established and/or prospective business relationships between Plaintiff and third parties.

33. Defendant's interference prevented or is likely to prevent Plaintiff's expectancy from ripening into a valid business relationship.

34. Plaintiff has suffered, and will continue to suffer irreparable harm as a result of Defendant's wrongful actions and tortious conduct.

COUNT 3

(Intentional Infliction of Emotional Distress)

35. That the Defendant and or his agents wilfully, maliciously and intentionally inflicted emotional distress upon the Plaintiff without just cause with the intent of harming the Plaintiff and as a direct and proximate cause of Defendant's and or his agents' actions, the Plaintiff was in fact irreparably harmed by the Defendant and or his agents.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests this Honorable Court:

1. Enter judgment against Defendant for Twenty Million and No/100 Dollars (\$20,000,000.00), together with pre- and post-judgment interest, costs, and attorneys fees as provided by law or statute; and
2. Punitive Damages in the amount of Twenty Million and No/100 Dollars (\$20,000,000.00) for the willful and malicious acts of Defendant; and
3. Grant such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

DONALD R. DePRIEST

BY: 

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PLAINTIFF DEMANDS TRIAL BY JURY

Don Depriest

From: Psharmer@aol.com
Sent: Friday, June 24, 2005 12:22 PM
To: ddepriest@msmct.com
Subject: MCT

Dear Don,

As you may know (for reasons that we have discussed previously following the events of September 11), I was forced to file a voluntary petition under the Chapter 11 Bankruptcy Code in April, 2004 to protect my existing assets and to allow a reorganization of my financial affairs. Under the terms of my case I am required to file a definite plan of financial reorganization before the end of July, 2005 in order to satisfy the Court requirement.

Several months ago while you were in Nashville and subsequent to my sale of MCT stock (7,782 shares which you kindly helped to arrange) you had indicated that you would afford me the opportunity to still participate with you in MCT. I have mentioned that informal understanding in my initial dealings with the Court but now I find it necessary to commit in tangible terms to that arrangement with the Court - if it still exists.

I would be very grateful if you would let me know if the offer still exists and (if affirmative) the manner in which the transaction would be accomplished. For example, would I give you a check to formalize my purchase of MCT stock (check to be held pending issuance of the stock) and then, following the sale of MCT, the resulting difference between my purchase amount and the sale amount would be remitted to me (the two transactions to occur simultaneously)?

I am sorry to bother you with this at this time but would be grateful for your reply at your earliest convenience and comments and MCT update (if possible).

Kindest regards,

Peter